

1 PETER S. DOODY (Bar No. 127653)
Doody@higgslaw.com
2 HIGGS FLETCHER & MACK LLP
401 West A Street, Suite 2600
3 San Diego, California 92101-7910
Telephone: (619) 236-1551
4 Facsimile: (619) 696-1410

5 Attorneys for Defendant JIR Fighter, Inc.

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION**
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11 JESUS JESSE CADENA,

12 Plaintiff,

13 v.

14 JIR FIGHTER, INC., ILENYA
IGNACCHITI; and DOES 1 to 50,
15 inclusive,

16 Defendants.

Case No.

NOTICE OF REMOVAL OF ACTION
PURSUANT TO U.S.C. §§1332 (A),
1441 (B) (DIVERSITY)

[DEMAND FOR JURY TRIAL]

17 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
18 **THE CENTRAL DISTRICT OF CALIFORNIA AND TO PLAINTIFF:**
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20 **PLEASE TAKE NOTICE** that Defendant JIR FIGHTER, INC. ("hereinafter
21 JIR") hereby removes this action from the Superior Court of the State of California,
22 County of San Bernardino, to the United States District Court for the Southern
23 District of California, pursuant to 28 U.S.C. sections 1332, 1441 and 1446. This
24 case is being removed upon grounds of diversity and jurisdiction based on the
25 allegations of Plaintiff JESUS JESSE CADENA ("Plaintiff").
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I.

STATEMENT OF THE CASE

1. On December 21, 2021, plaintiff filed a lawsuit in the Superior Court of the State of California, County of San Bernardino, entitled *Jesus Jesse Cadena v. JIR Fighter, Inc., Ilenya Ignacchiti*, Case No.: CIV SB 2134862. (Doody Declaration ¶ 2).

2. In his Complaint, Plaintiff alleges causes of action for motor vehicle negligence, and general negligence against JIR Fighter Inc. and its driver Ilenya Ignacchiti (“Ignacchiti”). This accident occurred in the early morning hours of December 27, 2019 on southbound Interstate 15, in the jurisdiction of the City of Fontana in San Bernardino County. Plaintiff was operating a Nissan Versa automobile southbound Interstate 15 in the number 3 lane. Defendant Ignacchiti was a commercial driver with JIR Fighter Inc., and operating a tractor-trailer owned by JIR Fighter Inc. Both the JIR Fighter Inc. tractor and trailer were licensed in the Province of Manitoba, Canada. The JIR Fighter Inc. tractor-trailer was in the number 2 lane of southbound Interstate 15. It is alleged the JIR Fighter Inc. tractor-trailer made a lane change from the number 3 lane into the number 2 lane and sideswiped plaintiff’s vehicle causing property damage to both vehicles. The California Highway Patrol was summoned to the scene and created a traffic collision report.

9. The driver of the JIR Fighter Inc. tractor-trailer, Defendant Ignacchiti has not been served as of the time of the filing of this Notice of Removal. (Doody Declaration ¶ 4).

BASIS FOR REMOVAL

A. Diversity of Citizenship

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1 12. For diversity purpose a corporation is a "citizen" both of the State in
2 which it was incorporated and of the state where it has its principal place of
3 business. 28 U.S.C. §1332(c)(1); Hertz Corp. v. Friend, 130 S. Ct. 1881, 1886
4 (2010).

6 13. At the time the action was commenced, and at the time of removal,
7 Defendant JIR Fighter, Inc. is a Canadian corporation organized and existing under
8 the laws of Canada. JIR Fighter, Inc.'s principal place of business is the
9 municipality of Ile Des Chenes which is located in the province of Manitoba,
10 Canada. JIR Fighter, Inc. was incorporated in the year 2015 pursuant to the Canada
11 Business Corporations Act (CBCA) and was incorporated in Winnipeg, Manitoba,
12 Canada. (Doody Declaration ¶ 5).

14 14. Although unserved at this time, Defendant driver, Ilenya Ignacchiti, at the
15 time the action was commenced and at the time the action was removed is a resident
16 of the Province of Manitoba, Canada.

18 15. Defendant DOES 1-50, inclusive, are unidentified as there is "no
19 information as to why they are or where they live or their relationship to this
20 action." It is therefore proper for the District Court to disregard them." McCabe v.
21 General Foods Corp., 811 F.2d 1336,1339 (9th Cir. 1987).

23 16. Accordingly, diversity of citizenship exists because plaintiff (California)
24 is not a citizen of the country of Canada the same country as JIR Fighter Inc and
25 unserved Defendant Ignacchiti.

1 **B. Amount in Controversy**

2 17. For purposes of diversity jurisdiction, when a Complaint is unclear and
3 does not specify a "total amount in controversy" the jurisdictional minimum may be
4 satisfied by claims for compensatory and general damages. Simmons v. PCR
5 Technology, 209 F. Supp. 2d 1029, 1031 (N.D. Cal. 2002), quoting Conrad
6 Association v. Hartford Accident & Indemnity Co., 994 F. Supp. 1196, 1998 (N.D.
7 Cal. 1998).

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9 18. In his Complaint, plaintiff seeks money damages for hospital and
10 medical expenses, general damages, past wage loss, and future loss of earning
11 capacity. In his Complaint plaintiff also states he has been hurt and injured in his
12 health, strength and activity, sustaining injuries and damages to his body and
13 nervous system, all to his detriment. Since this is a personal injury case plaintiff is
14 not permitted pursuant to the California Rules of Civil Procedure to include in the
15 Complaint a specific sum of damages. See California CCP § 425.10(b).

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17 19. However, at the time of service of the Complaint Plaintiff also served a
18 separate "Statement of Damages" pleading pursuant to California Code of Civil
19 Procedure section 585. Plaintiff's Statement of Damages asserts \$5,000,000 for
20 pain and suffering and inconvenience, and an additional \$5,000,000 for emotional
21 distress. Plaintiff also seeks an additional \$5,000,000 for medical expenses.
22 Plaintiff's Statement of Damages also lists future medical expenses, past lost
23 earnings and future loss of earning capacity – all amounts to be determined.
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1 Accordingly, based on Plaintiff's Statement of Damages, the case has a value in
2 excess of \$15,000,000. (Doody Declaration ¶ 6). Thus, including pain and
3 suffering, and past and future economic damages, the relief sought by plaintiff in
4 this action vastly exceeds the \$75,000 jurisdictional requirement. Thus, this Court
5 has original jurisdiction over this action based on diversity of citizenship under 28
6 U.S.C. 1332(a) and 1441(a).
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10 **IV.**

11 **ALL PROCEDURAL REQUIREMENTS HAVE BEEN MET**

12 22. Plaintiff originally filed his complaint in the Superior Court of
13 California, County of San Bernardino, which is located within the Central District of
14 California. Therefore, venue is proper in this Court as it is the "district and division
15 embracing the place where such action is pending." 28 U.S.C. § 1141(a).
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17 23. Pursuant to 28 U.S.C. § 1446(d), IRS Transportation will give notice of
18 the removal of this action to all parties and is filing a copy of the notice with the
19 Superior Court of California, County of San Bernardino.
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22 **V.**

23 **JURY TRIAL DEMAND**

24 24. Defendant JIR Fighter, Inc. hereby demands a trial by jury on all causes
25 so triable.
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1 VI.

2 **CONCLUSION**

3 WHEREFORE, JIR Fighter, Inc. prays that the above-entitled action now
4 pending against it in the Superior Court of California, County of San Bernardino, be
5 removed to this Court.
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7 Dated: July 31, 2023

HIGGS FLETCHER & MACK LLP

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10 By: /S/ Peter S. Doody
11 PETER S. DOODY
12 Attorneys for Defendant JIR Fighter, Inc.
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